



Sen. Thomas Cullerton

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LRB100 20872 MJP 38061 a

1 AMENDMENT TO SENATE BILL 3547

2 AMENDMENT NO. _____. Amend Senate Bill 3547 by replacing
3 the preamble with the following:

4 "WHEREAS, The persistent use of the reserve components as
5 an operational force in continuous support of active duty has
6 reinforced the need for robust service member employment
7 protections; and

8 WHEREAS, Extreme weather events require State activations
9 of the National Guard to save lives and protect property; and

10 WHEREAS, Terror threats require increased dependency on
11 reserve components; and

12 WHEREAS, The Uniformed Services Employment and
13 Reemployment Rights Act (38 U.S.C. 4301-4335) establishes the
14 minimal legal protections of service member employees; and

1 WHEREAS, This Act is meant to consolidate and clarify
2 existing State employment rights and protections; therefore";
3 and

4 by replacing everything after the enacting clause with the
5 following:

6 "Article 1. General Provisions.

7 Section 1-1. Short title; references to Act.

8 (a) Short title. This Act may be cited as the Service
9 Member Employment and Reemployment Rights Act.

10 (b) References to Act. This Act may be referred to as
11 ISERRA.

12 Section 1-5. Legislative intent. As a guide to the
13 interpretation and application of this Act, the public policy
14 of the State is declared as follows:

15 (1) The General Assembly recognizes the common public
16 interest in safeguarding and promoting military service
17 by:

18 (A) minimizing disadvantages to military service
19 in civilian careers;

20 (B) providing for prompt reemployment and
21 protections of service members in a manner that
22 minimizes disruption to the lives of such employees,

1 their employers, and co-workers;

2 (C) prohibiting discrimination against and
3 interference with military service; and

4 (D) ensuring that public entities are model
5 employers of reserve components by providing
6 additional benefits.

7 (2) This law should be interpreted as comprising a
8 foundation of protections guaranteed by this Act;
9 therefore, nothing in this Act shall supersede, nullify, or
10 diminish any federal or State law, including any local law
11 or ordinance, contract, agreement, policy, plan, practice,
12 or other matter that establishes a right or benefit that is
13 more beneficial to, or is in addition to, a right or
14 benefit provided for in this Act.

15 (3) This Act shall be liberally construed so as to
16 effectuate the purposes and provisions of this Act for the
17 benefit of the service member who has set aside civilian
18 pursuits to serve his or her country or this State in a
19 time of need. Such sacrifice benefits everyone but is made
20 by relatively few.

21 Section 1-10. Definitions. As used in this Act:

22 "Accrue" means to accumulate in regular or increasing
23 amounts over time subject to customary allocation of cost.

24 "Active duty" means any full-time military service
25 regardless of length or voluntariness including, but not

1 limited to, annual training, full-time National Guard duty, and
2 State active duty. "Active Duty" does not include any form of
3 inactive duty service such as drill duty or muster duty.
4 "Active duty", unless provided otherwise, includes active duty
5 without pay.

6 "Active service" means all forms of active and inactive
7 duty regardless of voluntariness including, but not limited to,
8 annual training, active duty for training, initial active duty
9 training, overseas training duty, full-time National Guard
10 duty, active duty other than training, state active duty,
11 mobilizations, and muster duty. "Active service", unless
12 provided otherwise, includes active service without pay.
13 "Active service" includes, but is not limited to:

14 (1) Reserve component voluntary active service means
15 service under one of the following authorities;

16 (A) additional or other training duty under 10
17 U.S.C. 12301(d) or 32 U.S.C. 502(f) (1) (B);

18 (B) active guard reserve duty, operational
19 support, or additional duty under 10 U.S.C. 12301(d) or
20 32 U.S.C. 502(f) (1) (B);

21 (C) funeral honors under 10 U.S.C. 12503 or 32
22 U.S.C. 115;

23 (D) medical care under 10 U.S.C. 12301(h);

24 (E) medical evaluation and treatment under 10
25 U.S.C. 12322;

26 (F) duty at the National Guard Bureau under 10

1 U.S.C. 12402;

2 (G) unsatisfactory participation under 10 U.S.C.
3 10148 or 10 U.S.C. 12303;

4 (H) disciplinary under 10 U.S.C. 802(d);

5 (I) extended active duty under 10 U.S.C. 12311; and

6 (J) reserve program administrator under 10 U.S.C.
7 10211.

8 (2) Reserve component involuntary active service means
9 service under one of the following authorities;

10 (A) annual training or drill requirements under 10
11 U.S.C. 10147, 10 U.S.C. 12301(b) or 32 U.S.C. 502(a).

12 (B) additional training duty or other duty under 32
13 U.S.C. 502(f)(1)(A);

14 (C) pre-planned or pre-programmed combatant
15 commander support under 10 U.S.C. 12304b;

16 (D) mobilization under 10 U.S.C. 12301(a) or 10
17 U.S.C. 12302;

18 (E) presidential reserve call-up under 10 U.S.C.
19 12304;

20 (F) emergencies and natural disasters under 10
21 U.S.C. 12304a or 14 U.S.C. 712;

22 (G) muster duty under 10 U.S.C. 12319;

23 (H) retiree recall under 10 U.S.C. 688;

24 (I) captive status under 10 U.S.C. 12301(g);

25 (J) insurrection under 10 U.S.C. 331, U.S.C. 332,
26 or 10 U.S.C. 12406;

1 (K) pending line of duty determination for
2 response to sexual assault under 10 U.S.C.12323; and

3 (L) initial active duty for training under 10
4 U.S.C. 671.

5 Reserve component active service not listed in paragraph
6 (1) or (2) shall be considered involuntary active service under
7 paragraph (2).

8 "Active service without pay" means active service
9 performed under a voluntary authority in which base pay is not
10 received regardless of other allowances.

11 "Annual training" means any active duty performed under
12 Section 10147 or 12301(b) of Title 10 of the United States Code
13 or under Section 502(a) of Title 32 of the United States Code.

14 "Base pay" means the main component of military pay,
15 whether active or inactive, based on rank and time in service.
16 It does not include the addition of conditional funds for
17 specific purposes such as allowances, incentive and special
18 pay. Base pay, also known as basic pay, can be determined by
19 referencing the appropriate military pay chart covering the
20 time period in question located on the federal Defense Finance
21 and Accounting Services website or as reflected on a federal
22 Military Leave and Earnings Statement.

23 "Benefits" includes, but is not limited to, the terms,
24 conditions, or privileges of employment, including any
25 advantage, profit, privilege, gain, status, account, or
26 interest, including wages or salary for work performed, that

1 accrues by reason of an employment contract or agreement or an
2 employer policy, plan, or practice and includes rights and
3 benefits under a pension plan, a health plan, an employee stock
4 ownership plan, insurance coverage and awards, bonuses,
5 severance pay, supplemental unemployment benefits, vacations,
6 and the opportunity to select work hours or location of
7 employment.

8 "Differential compensation" means pay due when the
9 employee's daily rate of compensation for military service is
10 less than his or her daily rate of compensation as a public
11 employee.

12 "Employee" means anyone employed by an employer.
13 "Employee" includes any person who is a citizen, national, or
14 permanent resident alien of the United States employed in a
15 workplace that the State has legal authority to regulate
16 business and employment. "Employee" does not include an
17 independent contractor.

18 "Employer" means any person, institution, organization, or
19 other entity that pays salary or wages for work performed or
20 that has control over employment opportunities, including:

21 (1) a person, institution, organization, or other
22 entity to whom the employer has delegated the performance
23 of employment-related responsibilities;

24 (2) an employer of a public employee;

25 (3) any successor in interest to a person, institution,
26 organization, or other entity referred to under this

1 definition; and

2 (4) a person, institution, organization, or other
3 entity that has been denied initial employment in violation
4 of Section 5-15.

5 "Inactive duty" means inactive duty training, including
6 drills, consisting of regularly scheduled unit training
7 assemblies, additional training assemblies, periods of
8 appropriate duty or equivalent training, and any special
9 additional duties authorized for reserve component personnel
10 by appropriate military authority. "Inactive duty" does not
11 include active duty.

12 "Military leave" means a furlough or leave of absence while
13 performing active service. It cannot be substituted for accrued
14 vacation, annual, or similar leave with pay except at the sole
15 discretion of the service member employee. It is not a benefit
16 of employment that is requested but a legal requirement upon
17 receiving notice of pending military service.

18 "Military service" means:

19 (1) Service in the Armed Forces of the United States,
20 the National Guard of any State or Territory regardless of
21 status, and the State Guard as defined in the State Guard
22 Act. "Military service", whether active or reserve,
23 includes service under the authority of U.S.C. Titles 10,
24 14, or 32, or State active duty.

25 (2) Service in a federally recognized auxiliary of the
26 United States Armed Forces when performing official duties

1 in support of military or civilian authorities as a result
2 of an emergency.

3 (3) A period for which an employee is absent from a
4 position of employment for the purpose of medical or dental
5 treatment for a condition, illness, or injury sustained or
6 aggravated during a period of active service in which
7 treatment is paid by the United States Department of
8 Defense Military Health System.

9 "Public employee" means any person classified as a
10 full-time employee of the State of Illinois, a unit of local
11 government, a public institution of higher education as defined
12 in Section 1 of the Board of Higher Education Act, or a school
13 district, other than an independent contractor.

14 "Reserve component" means the reserve components of
15 Illinois and the United States Armed Forces regardless of
16 status.

17 "Service member" means any person who is a member of a
18 military service.

19 "State active duty" means full-time State-funded military
20 duty under the command and control of the Governor and subject
21 to the Military Code of Illinois.

22 "Unit of local government" means any city, village, town,
23 county, or special district.

24 Section 1-15. Differential compensation.

25 (a) As used in this Section, "work days" are the actual

1 number of days the employee would have worked during the period
2 of military leave but for the service member's military
3 obligation. "Work days" are tabulated without regard for the
4 number of hours in a work day. Work hours that extend into the
5 next calendar day count as 2 work days.

6 (b) Differential compensation under this Act is calculated
7 on a daily basis and only applies to days in which the employee
8 would have otherwise been scheduled or required to work as a
9 public employee. Differential compensation shall be paid to all
10 forms of active service except active service without pay.
11 Differential compensation is calculated as follows:

12 (1) To calculate differential compensation, subtract
13 the daily rate of compensation for military service from
14 the daily rate of compensation as a public employee.

15 (2) To calculate the daily rate of compensation as a
16 public employee, divide the employee's regular
17 compensation as a public employee during the pay period by
18 the number of work days in the pay period.

19 (3) To calculate the rate of compensation for military
20 activities, divide the employee's base pay for the
21 applicable military service by the number of calendar days
22 in the month the service member was paid by the military.

23 Section 1-20. Independent contractors. Whether an
24 individual is an employee or independent contractor under this
25 Act is determined based on the following factors:

1 (1) the extent of the employer's right to control the
2 manner in which the individual's work is to be performed;

3 (2) the opportunity for profit or loss that depends
4 upon the individual's managerial skill;

5 (3) any investment in equipment or materials required
6 for the individual's tasks, or his or her employment of
7 helpers;

8 (4) whether the service the individual performs
9 requires a special skill;

10 (5) the degree of permanence of the individual's
11 working relationship; and

12 (6) whether the service the individual performs is an
13 integral part of the employer's business.

14 No single one of these factors is controlling, but all are
15 relevant to determining whether an individual is an employee or
16 an independent contractor.

17 Article 5. Service Member Employment Protections.

18 Section 5-5. Basic Protections. This Section incorporates
19 Sections 4304, 4312, 4313, 4316, 4317, and 4318 of the
20 Uniformed Services Employment and Reemployment Rights Act
21 under Title 38 of the United States Code, as may be amended,
22 including case law and regulations promulgated under that Act,
23 subject to the following;

24 (1) For the purposes of this Section, all employment

1 rights shall be extended to all employees in military
2 service under this Act, unless otherwise stated.

3 (2) Military leave. A service member employee is not
4 required to get permission from his or her employer for
5 military leave. The service member employee is only
6 required to give such employer advanced notice of pending
7 service. This advanced notice entitles a service member
8 employee to military leave.

9 An employer may not impose conditions for military
10 leave, such as work shift replacement, not otherwise
11 imposed by this Act or other applicable law.

12 A service member employee is not required to
13 accommodate his or her employer's needs as to the timing,
14 frequency, or duration of military leave; however,
15 employers are permitted to bring concerns over the timing,
16 frequency, or duration of military leave to the attention
17 of the appropriate military authority. The accommodation
18 of these requests are subject to military law and
19 discretion.

20 Military necessity as an exception to advanced notice
21 of pending military leave for state active duty will be
22 determined by appropriate State military authority and is
23 not subject to judicial review.

24 For purposes of notice of pending military service
25 under paragraphs (2) or (3) of the definition of "military
26 service" under Section 1-10, an employer may require notice

1 by appropriate military authority on official letterhead.
2 For purposes of this paragraph, notice exceptions do not
3 apply.

4 (3) Service, efficiency, and performance rating. A
5 service member employee who is absent on military leave
6 shall, minimally, for the period of military leave, be
7 credited with the average of the efficiency or performance
8 ratings or evaluations received for the 3 years immediately
9 before the absence for military leave. Additionally, the
10 rating shall not be less than the rating that he or she
11 received for the rated period immediately prior to his or
12 her absence on military leave. In computing seniority and
13 service requirements for promotion eligibility or any
14 other benefit of employment, the period of military duty
15 shall be counted as civilian service.

16 (4) State active duty ineligible discharge. For
17 purposes of state active duty, a disqualifying discharge or
18 separation will be the State equivalent under the Military
19 Code of Illinois for purposes of ineligibility of
20 reemployment under the Uniformed Services Employment and
21 Reemployment Rights Act as determined by appropriate State
22 military authority.

23 (5) A retroactive upgrade of a disqualifying discharge
24 or release will restore reemployment rights providing the
25 service member employee otherwise meets this Acts
26 eligibility criteria.

1 Section 5-10. Additional benefits for public employee
2 members of a reserve component.

3 (a) Concurrent compensation. During periods of military
4 leave for annual training, public employees shall continue to
5 receive full compensation as a public employee for up to 30
6 days per calendar year and military leave for purposes of
7 receiving concurrent compensation may be performed
8 nonsynchronously.

9 (b) Differential Compensation. During periods of military
10 leave for active service, public employees shall receive
11 differential compensation subject to the following:

12 (1) Public employees may elect the use of accrued
13 vacation, annual, or similar leave with pay in lieu of
14 differential compensation during any period of military
15 leave.

16 (2) Differential compensation for voluntary active
17 service is limited to 60 work days in a calendar year.

18 (3) Differential compensation shall not be paid for
19 active service without pay.

20 (4) Public employees who have exhausted concurrent
21 compensation under subsection (a) of Section 5-10 in a
22 calendar year shall receive differential compensation when
23 authorized under subsection (b) of Section 5-10 in the same
24 calendar year.

25 (c) Employer-based health plan benefits shall continue in

1 accordance with Section 5-5 of this Act, except the employer's
2 share of the full premium and administrative costs may not be
3 charged for active duty beyond 30 days in cases of involuntary
4 active service.

5 (d) In the event that 20% or more employees of a unit of
6 local government are mobilized under 10 U.S.C. 12301(a), 10
7 U.S.C. 12302, 10 U.S.C. 12304, or 10 U.S.C. 12304a, or 14
8 U.S.C. 712 concurrently, additional benefits under this
9 Section are not required without a specific appropriation for
10 that purpose.

11 Section 5-15. Prohibitions on Discrimination. For the
12 purposes of this Section, Section 4311 of the federal Uniformed
13 Services Employment and Reemployment Rights Act entitled
14 Discrimination Against Persons Who Serve in the Uniformed
15 Services and Acts of Reprisal Prohibited and the regulations
16 promulgated under that Act are incorporated.

17 Section 5-20. Notice of rights and duties

18 (a) Each employer shall provide to employees entitled to
19 rights and benefits under this Act a notice of the rights,
20 benefits, and obligations of service member employees under
21 this Act.

22 (b) The requirement for the provision of notice under this
23 Act may be met by the posting of the notice where the
24 employer's customarily place notices for employees.

1 Article 10. Violations.

2 Section 10-5. Violations. Any violation of Article 5 is a
3 violation of this Act.

4 Article 15. Compliance.

5 Section 15-5. Private right enforcement. A service member
6 may bring a private civil action for enforcement of a violation
7 of this Act.

8 Section 15-10. Circuit court actions by the Attorney
9 General.

10 (a) If the Attorney General has reasonable cause to believe
11 that any employer is engaged in a violation of this Act, then
12 the Attorney General may commence a civil action in the name of
13 the People of the State, as *parens patriae* on behalf of persons
14 within the State to enforce the provisions of this Act in any
15 appropriate circuit court.

16 (b) Prior to initiating a civil action, the Attorney
17 General shall conduct a preliminary investigation to determine
18 whether there is reasonable cause to believe that any employer
19 is engaged in a violation of this Act and whether the dispute
20 can be resolved without litigation. In conducting this
21 investigation, the Attorney General may:

1 (1) require the individual or entity to file a
2 statement or report in writing under oath or otherwise, as
3 to all information the Attorney General may consider
4 necessary;

5 (2) examine under oath any person alleged to have
6 participated in or with knowledge of the alleged violation;
7 or

8 (3) issue subpoenas or conduct hearings in aid of any
9 investigation.

10 (c) Service by the Attorney General of any notice requiring
11 a person to file a statement or report, or of a subpoena upon
12 any person, shall be made:

13 (1) personally by delivery of a duly executed copy
14 thereof to the person to be served or, if a person is not a
15 natural person, in the manner provided by the Civil
16 Procedure law when a complaint is filed; or

17 (2) by mailing by certified mail a duly executed copy
18 thereof to the person to be served at his last known abode
19 or principal place of business within this State.

20 (d) In lieu of a civil action, the individual or entity
21 alleged to have violated this Act may enter into an Assurance
22 of Voluntary Compliance with respect to the alleged violation.

23 (e) Whenever any person fails to comply with any subpoena
24 issued under this Section or whenever satisfactory copying or
25 reproduction of any material requested in an investigation
26 cannot be done and the person refuses to surrender the

1 material, the Attorney General may file in any appropriate
2 circuit court, and serve upon the person, a petition for a
3 court order for the enforcement of the subpoena or other
4 request.

5 Any person who has received a subpoena issued under
6 subsection (b) may file in the appropriate circuit court, and
7 serve upon the Attorney General, a petition for a court order
8 to modify or set aside the subpoena or other request. The
9 petition must be filed either: (1) within 20 days after the
10 date of service of the subpoena or at any time before the
11 return date specified in the subpoena, whichever date is
12 earlier, or (2) within a longer period as may be prescribed in
13 writing by the Attorney General.

14 The petition shall specify each ground upon which the
15 petitioner relies in seeking relief under this subsection and
16 may be based upon any failure of the subpoena to comply with
17 the provisions of this Section or upon any constitutional or
18 other legal right or privilege of the petitioner. During the
19 pendency of the petition in the court, the court may stay, as
20 it deems proper, the running of the time allowed for compliance
21 with the subpoena or other request, in whole or in part, except
22 that the petitioner shall comply with any portion of the
23 subpoena or other request not sought to be modified or set
24 aside.

25 Section 15-20. Remedies.

1 (a) A court in its discretion may award actual damages or
2 any other relief that the court deems proper.

3 Punitive damages are not authorized except in cases
4 involving violations under Section 5-15 and may not exceed
5 \$50,000 per violation.

6 Reasonable attorney's fees may be awarded to the prevailing
7 party, however, prevailing defendants may only receive
8 attorney's fees if the court makes a finding that the plaintiff
9 acted in bad faith.

10 (b) The Attorney General may bring an action in the name of
11 the People of the State against any employer to restrain by
12 preliminary or permanent injunction the use of any practice
13 that violates this Act. In such an action, the court may award
14 restitution to a service member. In addition, the court may
15 assess a civil penalty not to exceed \$5,000 per violation of
16 this Act.

17 If a court orders a party to make payments to the Attorney
18 General and the payments are to be used for the operations of
19 the Office of the Attorney General or a party agrees, in an
20 Assurance of Voluntary Compliance under this Act, to make
21 payment to the Attorney General for the operations of the
22 Office of the Attorney General, then moneys shall be deposited
23 into the Attorney General Court Ordered and Voluntary
24 Compliance Payment Projects Fund. Moneys in the Fund shall be
25 used, subject to appropriation, for the performance of any
26 function pertaining to the exercise of the duties of the

1 Attorney General including, but not limited to, enforcement of
2 any law of this State and conducting public education programs;
3 however, any moneys in the Fund that are required by the court
4 or by an agreement to be used for a particular purpose shall be
5 used for that purpose.

6 In any action brought under the provisions of this Act, the
7 Attorney General is entitled to recover costs.

8 Article 20. Home Rule.

9 Section 20-5. Home Rule. A home rule unit may not regulate
10 its employees in a manner that is inconsistent with the
11 regulation of employees by the State under this Act. This
12 Section is a limitation under subsection (i) of Section 6 of
13 Article VII of the Illinois Constitution on the concurrent
14 exercise by home rule units of powers and functions exercised
15 by the State.

16 Article 25. Statute of Limitations.

17 Section 25-5. Inapplicability of Statute of Limitations.
18 No statute of limitations applies to any private right or
19 Attorney General action under this Act.

20 Article 30. Illinois Service Member Employment and
21 Reemployment Rights Act Advocate.

1 Section 30-5. ISERRA Advocate.

2 (a) The Attorney General shall appoint an Illinois Service
3 Member Employment and Reemployment Rights Act Advocate and
4 provide staff as are deemed necessary by the Attorney General
5 for the Advocate. The ISERRA Advocate shall be an attorney
6 licensed to practice in Illinois.

7 (b) Through the ISERRA Advocate, the Attorney General shall
8 have the power:

9 (1) to establish and make available a program to
10 provide training to employers and service members;

11 (2) to prepare and make available interpretative and
12 educational materials and programs;

13 (3) to respond to informal inquiries made by members of
14 the public and public bodies;

15 (4) to prepare and make available required Service
16 Member Employment & Reemployment Rights Act notice to
17 employers;

18 (5) to investigate allegations of violations of this
19 Act on behalf of the Attorney General; and

20 (6) to prepare an annual report on this Act for the
21 Attorney General.

22 Article 35. Rulemaking.

23 Section 35-5. Rules. To accomplish the objectives and to

1 carry out the duties prescribed by this Act, the Attorney
2 General may adopt the rules necessary to implement this Act.

3 Article 40. Coverage Under Special Circumstances.

4 Section 40-5. Governor's election. In a time of national or
5 State emergency, the Governor has the authority to designate
6 any category of persons as entitled to protections under this
7 Act.

8 Article 90. Amendatory Provisions.

9 (5 ILCS 325/Act rep.)

10 Section 90-5. The Military Leave of Absence Act is
11 repealed.

12 (5 ILCS 330/Act rep.)

13 Section 90-10. The Public Employee Armed Services Rights
14 Act is repealed.

15 Section 90-15. The Military Code of Illinois is amended by
16 changing the heading of Article V-A as follows:

17 (20 ILCS 1805/Art. V-A heading)

18 ARTICLE V-A. NATIONAL GUARD SUPPLEMENTAL ~~EMPLOYMENT~~ RIGHTS

1 (20 ILCS 1805/22-10 rep.)

2 (20 ILCS 1805/30.1 rep.)

3 (20 ILCS 1805/30.5 rep.)

4 (20 ILCS 1805/30.10 rep.)

5 (20 ILCS 1805/30.20 rep.)

6 (20 ILCS 1805/30.15 rep.)

7 Section 90-20. The Military Code of Illinois is amended by
8 repealing Sections 22-10, 30.1, 30.5, 30.10, 30.20, and 30.15.

9 (20 ILCS 1815/79 rep.)

10 Section 90-25. The State Guard Act is amended by repealing
11 Section 79.

12 (50 ILCS 120/Act rep.)

13 Section 90-30. The Municipal Employees Military Active
14 Duty Act is repealed.

15 (50 ILCS 140/Act rep.)

16 Section 90-35. The Local Government Employees Benefits
17 Continuation Act is repealed.

18 Section 90-40. The Metropolitan Transit Authority Act is
19 amended by changing Section 29 as follows:

20 (70 ILCS 3605/29) (from Ch. 111 2/3, par. 329)

21 Sec. 29. If the Authority acquires a transportation system

1 in operation by a public utility, all of the employees in the
2 operating and maintenance divisions of such public utility and
3 all other employees except executive and administrative
4 officers and employees, shall be transferred to and appointed
5 as employees of the Authority, subject to all rights and
6 benefits of this Act, and these employees shall be given
7 seniority credit in accordance with the records and labor
8 agreements of the public utility. Employees who left the employ
9 of such a public utility to enter the military service of the
10 United States shall have the same rights as to the Authority,
11 under the provisions of the Service Member Employment and
12 Reemployment Rights Act ~~Service Member's Employment Tenure Act~~
13 as they would have had thereunder as to such public utility.
14 After such acquisition the authority shall be required to
15 extend to such former employees of such public utility only the
16 rights and benefits as to pensions and retirement as are
17 accorded other employees of the Authority.
18 (Source: P.A. 93-828, eff. 7-28-04.)

19 Section 90-45. The Local Mass Transit District Act is
20 amended by changing Section 3.5 as follows:

21 (70 ILCS 3610/3.5) (from Ch. 111 2/3, par. 353.5)

22 Sec. 3.5. If the district acquires a mass transit facility,
23 all of the employees in such mass transit facility shall be
24 transferred to and appointed as employees of the district,

1 subject to all rights and benefits of this Act, and these
2 employees shall be given seniority credit in accordance with
3 the records and labor agreements of the mass transit facility.
4 Employees who left the employ of such a mass transit facility
5 to enter the military service of the United States shall have
6 the same rights as to the district, under the provisions of the
7 Service Member Employment and Reemployment Rights, Act ~~Service~~
8 ~~Member's Employment Tenure Act~~ as they would have had
9 thereunder as to such mass transit facility. After such
10 acquisition the district shall be required to extend to such
11 former employees of such mass transit facility only the rights
12 and benefits as to pensions and retirement as are accorded
13 other employees of the district.

14 (Source: P.A. 93-590, eff. 1-1-04; 93-828, eff. 7-28-04.)

15 Section 90-50. The Service Member's Employment Tenure Act
16 is amended by changing Sections 1, 2, and 3 as follows:

17 (330 ILCS 60/1) (from Ch. 126 1/2, par. 29)

18 Sec. 1. Short title. This Act may be cited as the Service
19 Member's ~~Employment~~ Tenure Act.

20 (Source: P.A. 93-828, eff. 7-28-04.)

21 (330 ILCS 60/2) (from Ch. 126 1/2, par. 30)

22 Sec. 2. As a guide to the interpretation and application of
23 this Act, the public policy of the State is declared as

1 follows:

2 As a constituent commonwealth of the United States of
3 America, the State of Illinois is dedicated to the urgent task
4 of strengthening and expediting the national defense under the
5 emergent conditions which are threatening the peace and
6 security of this nation. It is the considered judgment of the
7 General Assembly that the service members ~~wage earners~~ of
8 Illinois who respond to their country's call to service in this
9 time of crisis, are deserving of every protection ~~of their~~
10 ~~employment status which~~ the law may afford, and that repetition
11 of the regrettable experience existing after the great war of
12 1917-1918, wherein returning service men were subjected to
13 serious discrimination with regard to tenure and other rights
14 ~~of employment~~, must be avoided, since any form of economic
15 discrimination against returning service men is a serious
16 menace to the entire social fabric of the United States of
17 America and the State of Illinois.

18 ~~By safeguarding the employment and the rights and~~
19 ~~privileges inhering in the employment contract, of service men,~~
20 ~~the State of Illinois encourages its workers to participate to~~
21 ~~the fullest extent in the national defense program and thereby~~
22 ~~heightens the contribution of our State to the protection of~~
23 ~~our heritage of liberty and democracy.~~

24 (Source: Laws 1941, vol. 1, p. 1202.)

25 (330 ILCS 60/3) (from Ch. 126 1/2, par. 31)

1 Sec. 3. Definitions. The term "persons in the military
2 service", as used in this Act, shall include the following
3 persons and no others: All members of the Army of the United
4 States, the United States Navy, the Marine Corps, the Air
5 Force, the Coast Guard and all members of the State Militia
6 called into the service or training of the United States of
7 America or of this State. The term "military service", as used
8 in this Act, shall signify Federal service or active duty with
9 any branch of service heretofore referred to as well as
10 training or education under the supervision of the United
11 States preliminary to induction into the military service. The
12 term "military service" also includes any period of active duty
13 with the State of Illinois pursuant to the orders of the
14 President of the United States or the Governor. The term
15 "military service" also includes any period of active duty by
16 members of the National Guard who are called to active duty
17 pursuant to an order of the Governor of this State or an order
18 of a governor of any other state as provided by law. The term
19 "military service" also includes the full-time duties of the
20 Adjutant General and Assistant Adjutants General under Section
21 17 of the Military Code of Illinois.

22 The foregoing definitions shall apply both to voluntary
23 enlistment and to induction into service by draft or
24 conscription.

25 ~~The term "political subdivision", as used in this Act,~~
26 ~~means any unit of local government or school district.~~

1 (Source: P.A. 99-88, eff. 7-21-15; 99-557, eff. 1-1-17.)

2 (330 ILCS 60/4 rep.)

3 (330 ILCS 60/4.5 rep.)

4 (330 ILCS 60/5 rep.)

5 (330 ILCS 60/6 rep.)

6 (330 ILCS 60/7 rep.)

7 (330 ILCS 60/8 rep.)

8 Section 90-55. The Service Member's Employment Tenure Act
9 is amended by repealing Sections 4, 4.5, 5, 6, 7, and 8.

10 Section 90-60. The Illinois Service Member Civil Relief Act
11 is amended by changing Section 10 as follows:

12 (330 ILCS 63/10)

13 Sec. 10. Definitions. In this Act:

14 "Military service" means any full-time training or duty, no
15 matter how described under federal or State law, for which a
16 service member is ordered to report by the President, Governor
17 of a state, commonwealth, or territory of the United States, or
18 other appropriate military authority.

19 "Primary occupant" means the current residential customer
20 of record in whose name the utility company or electric
21 cooperative account is registered.

22 "Service member" means a resident of Illinois who is a
23 member of any component of the U.S. Armed Forces or the

1 National Guard of any state, the District of Columbia, a
2 commonwealth, or a territory of the United States.

3 "State Active Duty" has the same meaning ascribed to that
4 term in Section 1-10 of the Service Member Employment and
5 Reemployment Rights Act ~~30.10 of the Military Code of Illinois.~~

6 "Training or duty under Title 32 of the United States Code"
7 has the same meaning ascribed to that term in Section 30.10 of
8 the Military Code of Illinois.

9 (Source: P.A. 97-913, eff. 1-1-13.)

10 Section 90-65. The Criminal Code of 2012 is amended by
11 changing Section 17-6 as follows:

12 (720 ILCS 5/17-6) (from Ch. 38, par. 17-6)

13 Sec. 17-6. State benefits fraud.

14 (a) A person commits State benefits fraud when he or she
15 obtains or attempts to obtain money or benefits from the State
16 of Illinois, from any political subdivision thereof, or from
17 any program funded or administered in whole or in part by the
18 State of Illinois or any political subdivision thereof through
19 the knowing use of false identification documents or through
20 the knowing misrepresentation of his or her age, place of
21 residence, number of dependents, marital or family status,
22 employment status, financial status, or any other material fact
23 upon which his eligibility for or degree of participation in
24 any benefit program might be based.

1 (b) Notwithstanding any provision of State law to the
2 contrary, every application or other document submitted to an
3 agency or department of the State of Illinois or any political
4 subdivision thereof to establish or determine eligibility for
5 money or benefits from the State of Illinois or from any
6 political subdivision thereof, or from any program funded or
7 administered in whole or in part by the State of Illinois or
8 any political subdivision thereof, shall be made available upon
9 request to any law enforcement agency for use in the
10 investigation or prosecution of State benefits fraud or for use
11 in the investigation or prosecution of any other crime arising
12 out of the same transaction or occurrence. Except as otherwise
13 permitted by law, information disclosed pursuant to this
14 subsection shall be used and disclosed only for the purposes
15 provided herein. The provisions of this Section shall be
16 operative only to the extent that they do not conflict with any
17 federal law or regulation governing federal grants to this
18 State.

19 (c) Any employee of the State of Illinois or any agency or
20 political subdivision thereof may seize as evidence any false
21 or fraudulent document presented to him or her in connection
22 with an application for or receipt of money or benefits from
23 the State of Illinois, from any political subdivision thereof,
24 or from any program funded or administered in whole or in part
25 by the State of Illinois or any political subdivision thereof.

26 (d) Sentence.

1 (1) State benefits fraud is a Class 4 felony except when
2 more than \$300 is obtained, in which case State benefits fraud
3 is a Class 3 felony.

4 (2) If a person knowingly misrepresents oneself as a
5 veteran or as a dependent of a veteran with the intent of
6 obtaining benefits or privileges provided by the State or its
7 political subdivisions to veterans or their dependents, then
8 State benefits fraud is a Class 3 felony when \$300 or less is
9 obtained and a Class 2 felony when more than \$300 is obtained.

10 For the purposes of this paragraph (2), benefits and privileges
11 include, but are not limited to, those benefits and privileges
12 available under the Veterans' Employment Act, the Viet Nam
13 Veterans Compensation Act, the Prisoner of War Bonus Act, the
14 War Bonus Extension Act, the Military Veterans Assistance Act,
15 the Veterans' Employment Representative Act, the Veterans
16 Preference Act, Service Member Employment and Reemployment
17 Rights Act, the Service Member's ~~Employment~~ Tenure Act, the
18 Housing for Veterans with Disabilities Act, the Under Age
19 Veterans Benefits Act, the Survivors Compensation Act, the
20 Children of Deceased Veterans Act, the Veterans Burial Places
21 Act, the Higher Education Student Assistance Act, or any other
22 loans, assistance in employment, monetary payments, or tax
23 exemptions offered by the State or its political subdivisions
24 for veterans or their dependents.

25 (Source: P.A. 99-143, eff. 7-27-15.)

1 Section 90-70. The Illinois Human Rights Act is amended by
2 changing Section 6-102 as follows:

3 (775 ILCS 5/6-102)

4 Sec. 6-102. Violations of other Acts. A person who violates
5 the ~~Military Leave of Absence Act, the Public Employee Armed~~
6 ~~Services Rights Act,~~ Section 11-117-12.2 of the Illinois
7 Municipal Code, Section 224.05 of the Illinois Insurance Code,
8 Section 8-201.5 of the Public Utilities Act, Sections 2-1401.1,
9 9-107.10, 9-107.11, and 15-1501.6 of the Code of Civil
10 Procedure, Section 4.05 of the Interest Act, the Military
11 Personnel Cellular Phone Contract Termination Act, Section
12 405-272 of the Civil Administrative Code of Illinois, Section
13 10-63 of the Illinois Administrative Procedure Act, Sections
14 30.25 and 30.30 of the Military Code of Illinois, Section 16 of
15 the Landlord and Tenant Act, Section 26.5 of the Retail
16 Installment Sales Act, or Section 37 of the Motor Vehicle
17 Leasing Act commits a civil rights violation within the meaning
18 of this Act.

19 (Source: P.A. 97-913, eff. 1-1-13.)".